

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT F. PAYNE, BHAVESH G. BHAKTA,
SRIDHAR RAMASWAMY and SONG WU



Application 10/765,377
Technology Center 2800

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences on July 26, 2007. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below:

Appeal Brief

Appellants filed an Appeal Brief which was received by the USPTO on May 09, 2006. The content provided under the heading "**SUMMARY OF CLAIMED SUBJECT MATTER**" is not commensurate in scope with 37 C.F.R. § 41.37(c)(1)(v) because there is no explanation of the subject matter defined in the independent and dependent claim involved in the appeal, which refer to the Specification by page and line number.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on May 9, 2006, defective;
- 2) notify appellants to file a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) and;
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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PJN:jrg

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